

Notice of Allowability	Application No.	Applicant(s)	
	10/617,910	ELLIOTT, GILLIAN DAPHNE	
	Examiner	Art Unit	
	Zachariah Lucas	1648	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the submission of December 16, 2005.
2. ☒ The allowed claim(s) is/are 12,17 and 19-21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>1/17/06</u> . 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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DETAILED ACTION

1. Currently, claims 12, 17, and 19-21 are pending in the application.
2. In the prior action, mailed on September 21, 2005, claims 12-18 were pending, with claims 12, 17, and 18 rejected; and claims 13-16 withdrawn as to non-elected inventions.
3. The applicant submitted an After-Final amendment on December 16, 2005 in which claim 12 was amended; claims 13-16 and 18 were cancelled, and claims 19-21 were added. This amendment has been entered into the application.
4. In view of the amendment of the claims in the submission of December 16, 2005 and in the below Examiner's Amendment, pending claims 12, 17, and 19-21 are allowed. These claims read on a non-obvious species of protein transport using the VP22 protein in view of the proteins previously unrecognized microtubule targeting function.

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Susan Alpert Siegel, PhD. on January 17, 2006.

The application has been amended as follows:

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Claim 12 has been amended to delete the term “association” in line three of the claim, and replace it with the term - - coupling- - .

This amendment was made to clarify that the VP22 protein and the substance to be delivered are in physical contact, and not merely associated by (e.g.) being mixed into the same composition.

Claim Rejections - 35 USC § 112

(Prior Rejection- Withdrawn) Claim 12 was rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement because the application lacks sufficient written description support for any portion or derivative of the HSV1 VP22 that binds to microtubules. In view of the amendment of the claims limiting them to embodiments wherein the VP22 protein portions must comprising one of the fragments comprising residues 1-267, 1-191, or 1-172 of the protein, the rejection is withdrawn.

6. **(Prior Rejection- Withdrawn)** Claims 12 and 18 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. In view of the cancellation of claim 18, and the arguments presented with respect to claim 12, the rejection is withdrawn.

Conclusion


7. Claims 12, 17, and 19-21 are allowed.

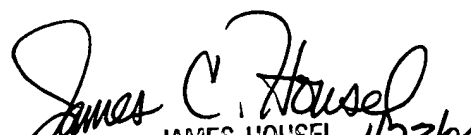
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Z. Lucas
Patent Examiner


JAMES HOUSEL 1/23/06
SUPERVISORY PATENT EXAMINER
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